

RESOLUTION 04-2009

AN ORDER ABANDONING A COUNTY STREET IN CLANCY

A petition was filed with the Board of County Commissioners of Jefferson County, Montana (hereinafter, the "Board"), by Bob Marks on the 10th day of December, 2008. This petition requested the abandonment of a certain Jefferson County street in an unincorporated town or townsite within Jefferson County, Montana, and being a portion of a street within the original townsite of Clancy, Jefferson County, Montana. The description of the subject County street is set forth as follows:

A portion of Clancy Street, Townsite of Clancy, Montana, more particularly described as follows; Commencing at the North $\frac{1}{4}$ corner of Section 9, T8N, R3W, P.M.,M., Jefferson County, Montana; thence S $52^{\circ}23'49''$ E, a distance of 1599.82' to the POINT OF BEGINNING; thence S $86^{\circ}14'49''$ E, a distance of 92.29' along the North line of Clancy Street to the easterly line of the former Great Northern Railroad Right of Way; thence S $10^{\circ}14'27''$ W, a distance of 60.39' along the easterly line of the former Great Northern Railroad Right of Way; thence N $86^{\circ}14'49''$ W, a distance of 144.50' along the South line of Clancy Street to the point of curvature of a non-tangent curve on the Frontage Road Right of Way line, concave to the northwest, having a radius of 145.50' a central angle of $33^{\circ}37'29''$, and a chord of 84.71' bearing N $48^{\circ}17'07''$ E; thence northeasterly along said curve, a distance of 85.39' to the POINT OF BEGINNING; said described tract contains 0.16 acres or 6753 sq. ft.

Pursuant to Title 7, Chapter 14, Part 26, MCA, the Board made a preliminary review of the subject Petition. The Board found that the petition was submitted by all of the landowners affected by street petitioned to be closed within Jefferson County and found that said petition described the particular street or portions thereof to be abandoned, the general route thereof, and the lands and owners affected by the proposed abandonment.

The Board further determined that the consent of the owners of the affected lands was endorsed upon the Petition by their execution of the same and that the Petition set forth the necessity for and advantage of the petitioned action.

Therefore, the Board ordered that the feasibility, desirability, and cost of granting the prayer of the Petition, and the merits or demerits of the proposed abandonment be investigated. In this regard, the Board appointed Commissioner Notbohm and Joe Carter, Road Supervisor, to conduct the investigation. On January 6, 2009, Joe Carter reported that he investigated the merits of the petition and recommended that the petition be granted.

The Board considered the Petition and the findings of Joe Carter's investigation. The Commission approved the closure of said street; hereinafter described:

A portion of Clancy Street, Townsite of Clancy, Montana, more particularly described as follows: Commencing at the North $\frac{1}{4}$ corner of Section 9, T8N, R3W, P.M., M., Jefferson County, Montana; thence S $52^{\circ}23'49''$ E, a distance of 1599.82' to the POINT OF BEGINNING; thence S $86^{\circ}14'49''$ E, a distance of 92.29' along the North line of Clancy Street to the easterly line of the former Great Northern Railroad Right of Way; thence S $10^{\circ}14'27''$ W, a distance of 60.39' along the easterly line of the former Great Northern Railroad Right of Way; thence N $86^{\circ}14'49''$ W, a distance of 144.50' along the South line of Clancy Street to the point of curvature of a non-tangent curve on the Frontage Road Right of Way line, concave to the northwest, having a radius of 145.50' a central angle of $33^{\circ}37'29''$, and a chord of 84.71' bearing N $48^{\circ}17'07''$ E; thence northeasterly along said curve, a distance of 85.39' to the POINT OF BEGINNING; said described tract contains 0.16 acres or 6753 square feet.

The Board found that the granting of the relief sought in the Petition was in the best interest of the County, was both feasible and desirable for the use and benefit of the public, would not cause any increase in costs to the public, and could be done without detriment to the public interest.

Upon such basis, the Board determined that the Petition should be granted and that an appropriate Order should be entered.

Therefore, **IT IS HEREBY ORDERED** as follows:

1. That the Petition of Bob Marks is hereby granted subject to the following conditions:
 - a) that the Petitioner recognize that no owner shall ever claim or attempt to claim that any portion of said street constitutes a "lot" or "parcel", distinct from the owners adjoining lot or property, upon which the separate residence or structure requiring water and sewer facilities can be constructed, and;
 - b) that any utility easements now existing on the right-of-way will be continued unaltered and that access by utility company employees for the maintenance of the equipment shall be allowed, and;
 - c) that Jefferson County shall retain full utility rights, if any.
2. That the portion of the said Jefferson County street which is abandoned by this Order is more particularly described as:

A portion of Clancy Street, Townsite of Clancy, Montana, more particularly described as follows: Commencing at the North $\frac{1}{4}$ corner of Section 9, T8N,
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R3W, P.M.,M., Jefferson County, Montana; thence S 52°23'49" E, a distance of 1599.82' to the POINT OF BEGINNING; thence S 86°14'49" E, a distance of 92.29' along the North line of Clancy Street to the easterly line of the former Great Northern Railroad Right of Way; thence S 10°14'27"W, a distance of 60.39' along the easterly line of the former Great Northern Railroad Right of Way; thence N 86° 14'49" W, a distance of 144.50' along the South line of Clancy Street to the point of curvature of a non-tangent curve on the Frontage Road Right of Way line, concave to the northwest, having a radius of 145.50' a central angle of 33°37'29", and a chord of 84.71' bearing N 48°17'07" E; thence northeasterly along said curve, a distance of 85.39' to the POINT OF BEGINNING; said described tract contains 0.16 acres or 6753 square feet.

DATED this 13th day of January, 2009.

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

TOMAS E. LYTHGOE, CHAIR

KEN WEBER, COMMISSIONER

DAVE KIRSCH, COMMISSIONER